

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TELECOMMUNICATIONS RELAY SERVICES	)	
AND THE FUNDING PROCESS FOR THE	)	ADMINISTRATIVE
TELECOMMUNICATIONS RELAY SERVICE	)	CASE NO. 357
AND THE TELECOMMUNICATIONS DEVICES	)	
FOR THE DEAF	)	

O R D E R

This matter arising upon petition of Sprint Communications Co., L.P. ("Sprint"), filed September 6, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of certain data filed in response to the Commission's Order of August 27, 1996 relating to the average call length and average set up time for relay calls in each state served by Sprint and for each Telecommunication Relay Center operated by Sprint on the grounds that disclosure of the information is likely to cause Sprint competitive injury, and that the information is entitled to protection as a trade secret, and it appearing to this Commission as follows:

On August 27, 1996, the Commission ordered Sprint to file data showing Sprint's average call length and average set up time for relay calls in each state served by Sprint and for each Telecommunications Relay Center operated by Sprint. The information was filed in connection with Sprint's proposal to provide Telecommunications Relay Service ("TRS"). The right to provide the service is awarded on the basis of competitive bids.

Sprint's internal practices and policies are directed toward nondisclosure of the information sought to be protected. The information is not disclosed to any personnel

except those who need to know. Sprint does not disclose the information publicly and provides it to customers with agreements of confidentiality.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The information sought to be protected reveals the operational expectations and capacities of Sprint's TRS network. Because the right to provide TRS is awarded on the basis of competitive bidding, disclosure of the information sought to be protected could adversely impact Sprint's competitive position in future TRS bids. Therefore, disclosure of the information is likely to cause Sprint competitive injury and the information should be protected as confidential.

Sprint also maintains that the information is entitled to protection as a trade secret under the provisions of KRS 365.880. Because the information qualifies for exemption on other grounds, the Commission need not address this argument.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the data showing Sprint's average call length and average set up time for relay calls in each state served by Sprint and for each Telecommunications Relay Center operated by Sprint, which Sprint has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 7th day of October, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt  
Chairman

E. J. Helton  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Hills  
Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TELECOMMUNICATIONS RELAY SERVICES	)	
AND THE FUNDING PROCESS FOR THE	)	ADMINISTRATIVE
TELECOMMUNICATIONS RELAY SERVICE	)	CASE NO. 357
AND THE TELECOMMUNICATIONS DEVICES	)	
FOR THE DEAF PROGRAMS	)	

O R D E R

This matter arising upon petition of AT&T Communications of the South Central States, Inc. ("AT&T"), filed September 6, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the average call length and average set up time for relay calls in each state AT&T serves and for each AT&T relay center on the grounds that disclosure of the information is likely to cause AT&T competitive injury, and it appearing to this Commission as follows:

In response to the Commission's Order of August 27, 1996, AT&T has filed information containing the average call length and the average set up time for relay calls in each state AT&T serves and for each AT&T relay center. The information was filed in relation to AT&T's proposal to provide Telecommunications Relay Service ("TRS"). The right to provide the service is awarded on the basis of competitive bids.

The information sought to be protected is not known outside of AT&T and is not disseminated within AT&T except to those employees who have a legitimate business need to know and act upon the information. AT&T seeks to preserve the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Because the right to provide TRS is awarded on the basis of competitive bids, AT&T must compete with other telecommunication carriers to provide the service. Disclosure of AT&T's average call length and average set up time by state would reveal information which AT&T's competitors could use in the bidding process to develop future bids to provide the service. Therefore, disclosure of the information is likely to cause AT&T competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that AT&T's average length of call and average set up time for relay calls and for each of its relay centers, which AT&T has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 7th day of October, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt  
Chairman

Edna J. Holmes  
Vice Chairman

B. J. Helton  
Commissioner

ATTEST:

Don Mills  
Executive Director